

**CITY OF MILWAUKIE
CITY COUNCIL MEETING
JULY 19, 2005**

CALL TO ORDER

Mayor Bernard called the 1962nd meeting of the Milwaukie City Council to order at 7:00 p.m. in the City Hall Council Chambers. The following Councilors were present:

Deborah Barnes, Council President Susan Stone
Carlotta Collette

Staff present:

Mike Swanson, City Manager	Paul Shirey, Engineering Director
Gary Firestone, City Attorney	John Gessner, Planning Director
Stewart Taylor, Finance Director	Willie Miller, Facilities Maintenance Coordinator
Larry Kanzler, Police Chief	Ernie Roeger, Fleet Supervisor
Kenny Asher, Community Development Director	

PLEDGE OF ALLEGIANCE

PROCLAMATIONS, COMMENDATIONS, SPECIAL REPORTS, AND AWARDS

Recognize Cynthia Nagy for Years of Service to the City of Milwaukie

Mayor Bernard and Council recognized Cynthia Nagy for service to the City of Milwaukie from 1980 to present.

Councilor Collette had felt welcomed by Ms. Nagy from the first day she came on Council and was sad to see her leave.

Mr. Swanson commented on Cynthia's belief in public service and her ability to treat people with a great deal of respect. She would be missed because she was a true professional and a wonderful person with whom to work.

Councilor Barnes said the City would miss her and her legacy.

McLoughlin Boulevard Status Report

Mr. Shirey updated the Council and citizens on the McLoughlin Boulevard Enhancement Project between Kellogg Creek and Scott Street. The construction contract was awarded to West Tech in June in the amount of \$2,359,626. It exceeded the engineer's estimate; however, ODOT signed an agreement to split costs 50/50 that were in excess of the original budget. David Evans & Associates, the construction-engineering firm, would begin surveying after Riverfest. The Antique Mall and Vic's Tavern were demolished and the City encountered some fuel oil contamination in the

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soil. The contractor would begin work about August 15, and Mr. Shirey would provide information on lane closures and hours of work after the pre-construction conference. He discussed various ways the City would communicate the inevitable slow downs during the 13-month construction period. Work would begin on the west side of McLoughlin Boulevard. He did not anticipate traffic ever being reduced to one lane nor would traffic be detoured through the downtown or neighborhoods. There may be some night work to minimize peak traffic impacts.

Mayor Bernard asked if there would be a construction advisory at Hwy 224.

Mr. Shirey said that was a good suggestion for the management plan.

Mayor Bernard suggested installing the lamp posts in such a way that it would be easy to hang banners across McLoughlin Boulevard in the future.

Mr. Shirey would make that part of the recommendation.

Councilor Stone liked the idea of night work to minimize congestion and asked if that would impact costs.

Mr. Shirey said he would follow up with Council on that question.

Riverfest Schedule

Mayor Bernard announced the July 23 Riverfest events.

TriMet Update

Phil Selinger, TriMet, provided an update on TriMet/City of Milwaukie projects. A lot of hard work had already been done and there was more to do in the future. TriMet continued to be up to the task and sought Milwaukie's partnership in moving forward. Relative to the larger work program, the Federal New Starts Program was increasingly more competitive, and it was difficult to win approval for regional projects. Local funds were tight even for shovel-ready projects.

He began his update with a discussion of the Milwaukie transit center. Last fall some of the bus lines were interlined and some of the layover presence at the on-street transit center was reduced. He discussed certain exceptions. Overall the on-street presence was reduced from 9 to 4 layover zones. With the closure of the Sellwood Bridge to bus traffic, two other routes that came to Milwaukie were eliminated. The presence at the transit center was somewhat less than last year, and TriMet was looking at what it could do to give back some parking spaces. Several bus shelters were refurbished.

Some time ago the Planning Commission and City Council endorsed the Working Group recommendation to advance a transit center at the Kellogg Lake location south of downtown. That decision was made after an exhaustive Working Group exercise, and one that he believed was very thorough. The Kellogg Lake option emerged after the 8 original options were considered and was selected by the Working Group as having the best combination of those options considered. TriMet heard clearly that there were community concerns with the Kellogg site relating to environmental and visual impacts and open space. TriMet indicated at the time that those issues would be considered in greater detail. Because of the complexity of the light rail project coming through Milwaukie and the fact that the transit center was going to have to be ultimately integral to the light rail project, TriMet believed that the further study of the transit center and

light rail was going to have to be linked. He was mindful of the fact that two phases of the transit center had been discussed. TriMet cannot move forward with the Phase 1 transit center without further study of the light rail project.

At this time, the Southgate site was still officially the locally preferred alternative (LPA) for the transit center. The Working Group process identified some ways that issues at that particular site would be mitigated. TriMet heard loud and clear the Working Group's and City Council's recommendations for the Kellogg Lake site. Those were the starting points for looking at a transit center short- and long-term for Milwaukie. There might be other options or variations of options that emerged in that refining process. The Working Group explored many different options, and TriMet would work with the community and staff to refine the two options currently on the table and explore any other combinations of options. The Kellogg Lake site would go through refinement as the process moved forward.

The next phase of study was a supplemental draft environmental impact statement (SDEIS) that was funded through Metropolitan Transportation Improvement Program (MTIP) in the amount of \$2 million. Local jurisdictions pledged additional funds to cover the \$4.3 million total cost of the further study. Metro staff planned to start the work in early 2006. No funds were available at this time for the design and construction of a Phase 1 transit center. TriMet's discretionary dollars went in part to funding the SDEIS process and to purchase buses.

TriMet also heard a suggestion from the community that it move the existing on-street transit center, at least in the interim, to the former Southgate Theatre site that was recently purchased for a park-and-ride lot. There was a dire need for park-and-ride in this corridor, and Southgate was a very popular lot when it was shared with the movie theatre. There were funds to finish the park-and-ride but not Phase 1 of the transit center.

Mayor Bernard had addressed the Joint Policy Advisory Committee on Transportation (JAPACT) regarding the number of projects going on in Milwaukie and the lack of parking. He wanted JAPACT to understand how important it was that parking not move into the neighborhoods.

Mr. Selinger said further action toward getting the site developed as a park-and-ride was held up largely for internal reasons. There was currently an engineering firm working on the design for that site, and the environmental assessment was completed. The land costs were somewhat higher than anticipated so that put pressure on the design budget for the balance of the project. TriMet believed it had a design that would work that included removing the building. He believed the site would serve the needs and be an attractive and functionally efficient asset to Milwaukie. The project would come before the City Council for land use action this September, groundbreaking in January 2006, and opening for use in May 2006.

Mayor Bernard asked if TriMet could have a temporary park-and-ride for those cars displaced by the North Main Village project. He was concerned about waiting until September and thought the lot could be used even though the building had not been demolished.

Mr. Selinger said the ultimate capacity of the lot was 309 spaces in the preliminary plans, and he discussed the feasibility of a staged process. TriMet would work with City staff to make that happen.

Mr. Selinger said the Tacoma Street Light Rail station had consistently been included in the variations proposed between Portland and Milwaukie. That was true for the South/North Project in the 1990's as well as the more recent South Corridor Project. It was an important station location because it provided connections to the Johnson Creek/Ardenwald and Sellwood-Moreland Neighborhoods as well as the Springwater Trail and the 3 Bridges Project. There were no reasonable alternative sites that would serve that part of the community, and it did provide efficient access to SE McLoughlin Boulevard. At JPACT's recent meeting, Mayor Bernard said the region should purchase the property now and protect it for future transportation use. A protective buy was accepted practice in the transit industry; however, there were neither public nor federal funds to make that happen. The region needed to continue that conversation. The LPA and land use final order both identified that station as part of the South Corridor Project. The land use final order was a declaration of intent to build a project and put jurisdictions and the community on notice not to enter into actions that would preclude construction of the project. That land use final order could not preclude development of specific properties by the property owner. It might raise the price for future development, but it could not block development.

The current property owner talked to TriMet during the Working Group process about purchasing the Goodwill site in lieu of the Southgate property. The Goodwill site was not accessible by buses using McLoughlin Boulevard because of the divided facility to pick up park-and-riders. Light rail would have its own access to the site, so the bus paradox would no longer be in place. Any near term use without further detailed study and expense did not seem likely. That was not to say TriMet could not buy it to protect it for future use. Since there was no immediate use or budget, TriMet declined the proposed swap for Southgate. The configuration for light rail through that part of the corridor was tight. TriMet looked at the renderings of the proposed project. Conceivably light rail could be elevated across the private driveways. Presumably, there would be a station integrated with the project that would create a nice connection if done correctly. In any case, it would be difficult to have a park-and-ride facility because those took up a lot of space, either vertically or horizontally. TriMet would want to work with the City of Portland on any development review process with the goal of reserving a slot through that project for light rail. He did not think that a park-and-ride facility, which was very important for the viability of the proposed rail project, was feasible at that location.

Mr. Selinger closed by saying there were a lot of related projects on the table – public projects, private development, and transit projects. The benefits were multiplied when projects were coordinated making a whole that was greater than the sum of its parts. TriMet needed to coordinate with the Milwaukie Downtown Plan as it continued to evolve and needed to keep any high capacity transit light rail project to Milwaukie competitive by promoting downtown development and access by all modes. TriMet also supported Mayor Bernard's proposal to reconvene the South Corridor Steering Committee to work on some unfinished business as well as reviewing some of the

current topics. TriMet continued to value the partnership with Milwaukie Council, staff, and the community.

Councilor Collette said in the Working Group it was found that one of the advantages of the Kellogg Lake site was that the City owned it, and the process could be fast tracked. Groundbreaking could have been as early as this fall, but that was not the case. She asked why the issue had become more complex.

Mr. Selinger said part of the issue was money to build the project as TriMet was on a very lean program. The second issue was that the post-process assessment showed it was entangled with the light rail program. TriMet was nervous about making a commitment to Phase 1 when there were so many unknowns about Phase 2. They could continue to talk about making something happen sooner since the City owned the property. There would still need to be an environmental process.

Councilor Collette was concerned because it had been a very long and difficult process for the City. The Planning Commission and this City Council made their decisions, and now it seemed like the project was being put on the back burner. She felt there was growing support for light rail in general and for that site, so she thought it was important to move forward.

Mr. Selinger said that was a point well taken, and TriMet would continue to work with the Mayor through the other committees.

Councilor Stone understood Southgate was still the LPA. Some time ago there was a discussion of putting the park-and-ride there and moving buses there from the downtown area. She knew that deadline had passed.

Councilor Barnes said the groundbreaking was promised for November 2003.

Councilor Stone said downtown parking in general was a concern. Although some of the buses were interlined and some routes removed, parking would be more difficult when the North Main Village Project was up and running. She understood Mr. Selinger to say that the Tacoma/McLoughlin Boulevard site could not be protected because there was no funding.

Mr. Selinger did not mean that TriMet could not protect the site. There was no money right now, but the partners could brainstorm about ways to find the funds.

Councilor Stone understood TriMet was interested in carving out a place for light rail to go through that site if it were privately developed although there could not be a park-and-ride.

Mr. Selinger replied that would be up to the City of Portland.

Councilor Stone wanted to feel more comfortable about what would happen with that site. She wanted some reassurance about what was going to happen. She asked if the ODOT site was an option if there could not be a transit center and park-and-ride at Tacoma.

Mr. Selinger replied TriMet would have to develop a Plan B, but he did not know what that would be at this point.

Councilor Stone commented ODOT was certainly discussed a year ago.

Mr. Selinger said it was difficult because the rail project was only through the Draft Environmental Impact Statement (DEIS) and had not gone into preliminary engineering. Any purchase of that site would be assuming some presently undetermined risk. Most were confident that the site needed to be in the final plan, so that risk could be minimal.

Councilor Stone was concerned about having enough land when looking at growth in Clackamas County and meeting the needs for all modes of transportation. Gas prices were also a factor. It was obvious that something was going to be changing. Kellogg Lake was a finite area in which to develop a bus transit and a parking structure. The ODOT and Tacoma sites had a lot more acreage.

Mr. Selinger replied access was a big part of the equation.

Mayor Bernard added that a lot of money was tied up in TEA-21 until the President signed the Transportation Bill.

Mr. Selinger commented that TriMet expected I-205 to be well under construction, but it was held up in the federal quagmire.

Councilor Barnes asked Mr. Selinger what he meant by his statement that the post process assessment made TriMet nervous in response to Councilor Collette's question about why things were slowing down.

Mr. Selinger said it was not making TriMet nervous but a number of concerns needed to be fully explored to determine how the proposed Kellogg Lake plan could be modified to minimize impacts. Last fall things like colors, landscaping, and height were discussed as ways to mitigate those expressed concerns. He believed those issues were closely related to the light rail project and needed to go forward together. The SDEIS process that was funded would begin early next year and take about one year to complete. At that time more might be known about the site so that Phase 1 of the transit center project could be built. It was his understanding that the City Council adopted a resolution as part of the LPA calling for the transit center to be constructed by 2006, so obviously that was not likely to happen. The LPA passed by the Metro Council called for a transit center to be constructed with the opening of Phase 2 of the South Corridor project. Milwaukie's transit center would open before or at the same time as the opening of the I-205 light rail project. He did not remember the reference to breaking ground in 2003, but in any case it would not be by 2006.

Mayor Bernard added at the time that date was suggested, I-205 light rail was also supposed to open.

Councilor Barnes expressed complete disappointment in TriMet. This community worked through a long, arduous process that divided people. Some people told her not to trust TriMet even if it was in writing. This was the second time she had given TriMet an opportunity, and she did not trust that organization any longer. She spoke for herself and not any fellow Council members. Mr. Selinger had told her those buses would be moved out of downtown and there would be a groundbreaking. Mr. Selinger had promised, and it was in writing. That day had come and gone. She understood there was no federal funding and that there were no matching funds. She expected Mr. Selinger as an official to come back to the City Council and explain what was going on. The Council had to answer to the people in the community. That was what made her angry. TriMet let these people down.

Mr. Selinger said Milwaukie was also part of TriMet's community along with other parts of the region.

Councilor Barnes said the people in the back of the room did not think TriMet was serving them. That was her concern because she answered to them. She wanted Mr. Selinger and the agency to at least come forward on a regular basis as a courtesy to provide information. She understood a TriMet staff person went to a neighborhood association meeting and gave them an update. Nobody on Council had heard about it. She did not understand why there could not be an open dialogue.

Mr. Selinger understood Councilor Barnes's concern. TriMet had been working with City staff. He and Mr. Swanson have been trading e-mails, but unfortunately there was not a lot to report. The park-and-ride lot was not moving quickly, and the other projects were struggling to move along in part because TriMet was bogged down in the larger process. He would be glad to talk to Council on a monthly basis.

Mayor Bernard suggested a quarterly report. This Council did stick its neck out when it made its recommendation. He told Metro Councilor Newman that this process needed to move forward. He doubted that light rail would be elevated in order to go over someone's driveway. It would just end. Moving to the ODOT site would not serve the neighborhoods at all.

Mr. Selinger added the dialogue needed to continue to be a team. TriMet was still a partner.

Councilor Stone commented it was not about serving one neighborhood. It was the regional concept of serving everyone.

Councilor Collette said the South Corridor project was about transportation along McLoughlin Boulevard and solving traffic issues associated with getting to Oregon City and Portland. She was amazed when Phase 1 became the downtown Portland transit mall and I-205 putting Milwaukie's issues completely off the table. Somehow the money was found to redo the downtown transit mall as part of the South Corridor project. She was at a loss as to how that fit from an environmental justice perspective. Milwaukie was the low-income community, and it was the community that was not being appropriately served by transit. She asked Mr. Selinger how the downtown mall got moved ahead as part of Phase 1.

Mr. Selinger replied the I-205 corridor had three urban renewal districts along its alignment, and the downtown had two. After a lot of work, the business community came to the table and offered up money through a local improvement (LID) that included Portland State University (PSU) and other large downtown players. A lot of the expensive work was getting light rail from one end of downtown to the other. TriMet was now in a good position to take off from the PSU terminus to get to downtown Milwaukie.

Councilor Colotto understood, then, that it could be construed as a phase of the Milwaukie project.

Mr. Selinger said the more costs that were off-loaded from the Milwaukie project, the more competitive it would be in the process. The challenge of getting to Milwaukie was the bridge.

AUDIENCE PARTICIPATION

State Rep. Carolyn Tomei, co-founder of Island Station Neighborhood. The Island Station Neighborhood supported the transit center at the River Road and McLoughlin Boulevard site. That intersection was one of the most dangerous in the City. She lived in that area for almost 40 years, and people used to call it the guillotine because there were so many accidents. If the transit center were built at that site, the intersection would be improved. There would be two new lights, and traffic would be directed to follow McLoughlin Boulevard rather than diverting onto River Road, which was not built to handle the kind of traffic it does today. The Island Station Neighborhood saw a lot of advantages to the traffic's staying on McLoughlin Boulevard. She was concerned about the suggestion that the transit center be moved from the downtown in the interim to the Southgate area. That would be a real detriment to the Island Station Neighborhood as well as the Kellogg Lake Apartments because residents take the bus from downtown Milwaukie. It would be prohibitive for some to walk to the Southgate area to catch the bus. She commended the Mayor and others who spoke out about the transit center and bringing light rail into Milwaukie. There had been a great deal of bloodletting over the years, and the City Council and Planning Commission had gone through hours and hours of testimony to reach such a difficult decision. It was disappointing for the City and the region not to be able to move ahead with that decision after so many years. In addition to Milwaukie, she represented the SE Portland areas of Sellwood, Westmoreland, and Eastmoreland, who were very supportive of light rail. People had been looking forward to the Tacoma property as a transit center site – not a Wal-Mart location – to bring buses and eventually light rail into Milwaukie and other areas. She hoped the City Council would continue to speak up and continue going to Metro and TriMet with the message that people wanted light rail, and they wanted it soon – not 10 years from now. She thanked the Council for speaking up, and she would continue to speak up also.

Ron Swaren, 1543 SE Umatilla Street, Portland. He had been involved with transportation for some time and discussed his background. The whole southeast metropolitan region and northwest Clackamas County needed to be studied further to determine how development objectives tied in with transportation problems. He did not believe Metro was trying to sweep anything under the rug; he believed it was just overextended. He thought everyone should work together to predict and prevent future problems. He suggested an ad hoc committee made up of officials from various cities to exercise some influence with the JPACT to ensure the transportation network was done right. He discussed the upcoming Portland City Council meeting and the numbers of people who wanted to comment on Wal-Mart. Bottlenecks needed to be identified that would occur as the development proceeded. Mass transit routes should be carefully planned to maximize ridership. He suggested utilizing the media more, and noted *The Tribune* was covering those issues. He was concerned that so much federal money went into funding TriMet and understood some of those funds would begin drying up.

Councilor Collette read a letter into the record. A lot of people received a newsletter that mentioned the Milwaukie light rail and transit center in what she thought was a derogatory manner. She invited several people from the Coalition for a Livable Future

on a tour of the Kellogg Lake site, and the following was the letter the group asked to be read into the record:

"I am writing on behalf of the Coalition for a Livable Future (CLF) regarding efforts to bring light rail to Milwaukie, and more specifically the proposed location of a transit center adjacent to Kellogg Lake.

CLF is a collation of 60 community organizations working together to protect, restore, and maintain healthy, equitable, and sustainable communities, both human and natural, for the benefit of present and future residents of the greater metropolitan region.

We are very supportive of efforts to bring light rail to Milwaukie. We believe it would serve as an important link in our regional transportation system, promote development in Milwaukie's urban center, and increase transportation choices for Milwaukie's residents. We are pleased that, after considering the options for improving transportation in the South Corridor, Milwaukie residents are growing more supportive of light rail because it will serve their needs, and they have been involved in selecting the best alignment.

Last week, after reading a statement in our journal, *Connections*, which noted that there has been some community concern over the relocation of the transit center to the Kellogg Lake site, Councilor Carlotta Collette offered to take us on a tour of the site. Jim Labbe of the Audubon Society of Portland, Scott Chapman of the Columbia Group Sierra Club, Jonathan Trutt of Northwest Housing Alternatives, and I (Teresa Huntsinger) participated.

We would like to state for the record that we are not opposed to the Kellogg Lake site. On the contrary, it appears to be a viable option. While this site is not physically in downtown Milwaukie, well-designed pedestrian bridges could connect it to both downtown and the riverfront, supporting positive development in each, and providing transit users convenient access to local businesses, cultural amenities, employment areas, parks, restaurants and shopping.

We have been contacted by several residents who were concerned that the development of a transit center on Kellogg Lake would result in a loss of Greenspace and wildlife habitat. The upland portion of the site, where construction would occur, does provide Greenspace and limited wildlife habitat. In our "Regional Equity Atlas" research project, which will be published this fall, preliminary results show that Milwaukie is deficient in parks and Greenspaces in comparison with the rest of the region. We recommend that the approximately two acres of lower quality, but still significant upland habitat lost due to construction of a transit center should be replaced by permanently protecting similar or higher quality wildlife habitat accessible to the public elsewhere in Milwaukie.

Regarding the riparian portion of the site, if transportation funds can be leveraged to restore Kellogg Creek by removing the dam, re-establishing

the stream channel, and enhancing the high value riparian habitat on that site, the proposed transit center could certainly be a net benefit in terms of water quality and fish and wildlife habitat on site, the proposed transit center could certainly be a net benefit in terms of water quality and fish and wildlife habitat values.

Please take these comments into consideration as you move forward on your efforts to improve transit, protect wildlife habitat, and build a strong economy in Milwaukie.

Sincerely, Teresa Huntsinger, Program Director"

Ed Zumwalt, 10888 SE 29th Avenue, Milwaukie. He was glad to see Mr. Selinger at the meeting; however, things seemed to get a little fuzzier. He was confused because he and several people from the Neighborhood and the City went to Metro and listened to them talk about habitat protection. Out of one side of their mouths they were talking about protecting habitat and out of the other side saying let's pave over Kellogg Lake Park where there was blue heron, osprey, and bald eagle. They said that was brought about by neighborhood people. Carlotta Collette pushed this from the neighborhood level. Now she was on Council, so it was a viable thing for the City. On June 13, two representatives from TriMet came to the neighborhood meeting and said they were going to study a lot of things and were backing off a little from Kellogg Lake. There were 30 people at that meeting. Now it seemed like Kellogg Lake was back in first place. He discussed the 14-points that helped unify the neighborhoods. He attended the Working Group meetings, and some people connected to TriMet said, "Good, we split the neighborhoods." He urged getting back to grassroots and working together. There was a great thing going with the grassroots efforts, but it got out of their hands when the Working Group started. The big dogs took over. He urged getting back to livability. If Mr. Selinger wanted to talk, he should go to the neighborhoods. Everyone should work together – he heard it said he was holding up progress.

Lisa Gunion-Rinker, 3012 SE Balfour Street, Milwaukie. She was a six-year resident. Light rail and transit were of great importance to her as a younger citizen. She currently, as do many younger residents of her neighborhood, works in downtown Portland. She works on the Hill, so the bus was not an option. She hoped light rail would come through making it easier for everyone to get to work downtown and back home. She currently carpooled, and that was challenging. She was frustrated that things were not moving along faster. As a resident she hoped the City was moving forward. Mr. Selinger's comments made her feel very frustrated. Light rail was what the City needed. The Tacoma site was perfect for the park-and-ride and preferable to a Wal-Mart. Johnson Creek Boulevard right now was a parking lot between 4:30 p.m. and 6:00 p.m., and she guessed that street was already over capacity. As a concerned citizen, she appreciated all the Council's work, and she believed it was on the right track. As a younger person in the community, she appreciated that TriMet was present to talk about the issue. She wanted the project up and running again.

CONSENT AGENDA

It was moved by Councilor Barnes and seconded by Councilor Collette to approve the Consent Agenda that consisted of the following:

- A. City Council Minutes of June 21, 2005;
- B. Intergovernmental Agreement of the Regional Water Providers Consortium;
- C. Purchase Vehicles;
- D. Purchase Elevator for the New Operations Building;
- E. Resolution No. 36-2005: A Resolution of the City Council of the City of Milwaukie, Oregon, for the adoption of the National Incident System (NIMS) in the City of Milwaukie; and
- F. Extend Municipal Court Judge Contract.

Motion passed unanimously among the members present. [4:0]

AUDIENCE PARTICIPATION

No further public comments.

PUBLIC HEARING

Amend Milwaukie Municipal Code Chapter 15.20 by Adopting New Regulations Governing the Moving of Oversized Structures over City Streets

Mayor Bernard called the public hearing to order at 8:15 p.m.

The purpose of this hearing was to consider an ordinance that amended Municipal Code Chapter 15.20 by adopting new regulations that govern moving structures over city streets.

Staff Report: **Mr. Gessner** said these regulations were in response to a perceived weakness of the existing regulations, which had been on the books for some time. He discussed the difficulties with the Marinos house about three years ago that he felt could be attributed to the code language. The Council directed staff to find a way to improve some of the regulations; however, the work was delayed due to other priorities at the time. He reviewed the major components of the permit system:

- Temporary storage on lots or streets was prohibited.
- Insurance was required.
- Prior notice to police, emergency providers, Oregon Department of Transportation (ODOT), rail road, and others to speed the application process and not create a hardship situation either for a property owner or a house mover once the application was made.
- Prior demonstration on zoning compliance for the receiving site.
- Approval criteria that included satisfaction of any liens.
- Post notice on the property before the building was moved to provide an opportunity for community comment. There was a mandatory 5-day waiting period before approval to allow for appeals.
- Violation specified in the event there was a breach in regulations.

These regulations were sent to three structure moving companies: NW Structural Moving, Scappoose; Emmert International, Clackamas; and D&R Associates, Gresham. At the July 5 work session, the Council asked that staff review other jurisdictions' regulations, and those were identified in the staff report.

The City received concurrence from all of the involved agencies and parties both internal and external. Mr. Gessner requested that the City Council approve the proposed ordinance.

Councilor Collette asked for clarification of why the donor site had to conform to zoning.

Mr. Gessner replied that had to do with historic preservation regulations. The City had the ability to hold off on a demolition permit while other options were sought. Staff wanted to ensure the City's historic regulations were covered.

Mayor Bernard noted the clause that would allow the City Council to step in the event of a necessity.

Mr. Gessner said the City Council might waive any provision of these regulations upon finding that it was in the public interest to do so.

Public Comment

None.

Correspondence: **Mr. Gessner** received an e-mail from NW Structural Moving that had been included in the July 5, 2005 work session staff report that indicated that company felt the regulations were consistent with what it might expect.

Mayor Bernard closed the public hearing at 8:21 p.m.

Discussion among Council members:

None.

Decision:

It was moved by Councilor Barnes and seconded by Councilor Stone for the first and second readings and adoption of the ordinance amending Milwaukie Municipal Code Chapter 15.20. Motion passed unanimously among the members present. [4:0]

Mr. Swanson read the ordinance for the first and second times by title only.

The City Recorder polled the Council: Councilors Barnes, Collette, and Stone and Mayor Bernard voted 'aye.' [4:0]

ORDINANCE NO. 1952:

AN ORDINANCE OF THE CITY OF MILWAUKIE, OREGON, AMENDING THE MILWAUKIE MUNICIPAL CODE CHAPTER 15.20 BY ADOPTING NEW REGULATIONS GOVERNING MOVING OF OVERSIZE STRUCTURES OVER CITY STREETS.

OTHER BUSINESS

Amend Milwaukie Municipal Code by Adding New Chapter 9.07, Public Urination and Defecation as Prohibited Conduct – Ordinance

Chief Kanzler recommended the amendment that would allow the police department to take action to prevent urination and defecation in public. There was an increased problem over the past 12 to 14 months that initially appeared to be during the night shift

when people relieved themselves in a public place. He also received notice from City staff about incidents in the City Hall parking lot and surrounding landscaping and near the bus facilities. This ordinance would allow the police department to cite people for public urination and defecation into the municipal court with a fine of \$750 per activity. The City Attorney and police officers supported his recommendation for adoption. He noted other cities within the region had similar ordinances. The officer would cite the person into court, and the municipal court judge would make the assessment.

It was moved by Councilor Collette and seconded by Councilor Barnes for the first and second readings and adoption of the ordinance amending Milwaukie Municipal Code by adding a new Chapter 9.07. Motion passed unanimously. [5:0]

Mr. Swanson read the ordinance for the first and second times by title only.

The City Recorder polled the Council: Councilors Barnes, Collette, and Stone and Mayor Bernard voted 'aye.' [4:0]

ORDINANCE NO. 1953:

AN ORDINANCE OF THE CITY OF MILWAUKIE, OREGON, AMENDING THE MILWAUKIE MUNICIPAL CODE BY ADDING A NEW CHAPTER 9.07 TO PROHIBIT PUBLIC URINATION AND DEFECATION.

Goal 5 Update

Jack Hoffman, Metro Policy Advisory Committee (MPAC), and **Paul Ketchum**, Metro, provided the Goal 5 update. Metro had been working on its fish and wildlife program since 1996, and the result was an educational, voluntary, incentive, and regulatory program to protect stream corridors, which he indicated on a map. Those land owners with fish and wildlife habitat would be receiving Measure 56 notices in about two weeks telling them Metro was in the process of adopting regulations that might affect property values. The program will go before Metro Council in September for approval, and then on to the Land Conservation and Development Commission (LCDC) for acknowledgement. Cities would have two years to comply by either using or modifying their current programs or by adopting a district plan. The program did not apply to existing residential property. If one wanted to build or expand into the corridor, there would be some requested restrictions. All cities would be required to remove barriers to habitat-friendly development such as clustering and setbacks.

Mr. Ketchum added that part of the Nature in the Neighborhood Program included technical assistance to the local jurisdictions to determine which compliance options were the best and to help develop code provisions.

Mr. Hoffman said the concept was to avoid, minimize, and mitigate through a region-wide effort that included 25 cities and 3 counties.

Councilor Collette asked Mr. Hoffman if he had a sense of the types of questions property owners would ask when they received their Measure 56 notices.

Mr. Hoffman said Milwaukie would have to substantially comply with the region. No one had to remove his lawn or garden or existing buildings. Someone could demolish a structure and build a new one as long as the footprint was the same. The existing program may not be much different than what was already in effect. Public hearings and the public process would likely begin summer 2006.

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Councilor Stone asked how this applied to government-owned land.

Mr. Hoffman said the regulations applied to public and privately owned land.

Mr. Ketchum added those areas already managed for high intensity recreational uses would not be subject. He discussed Metro's Internet mapping tool.

Mr. Hoffman discussed the map revision process and noted that Metro would accept and process Measure 37 claims.

Mr. Ketchum would send copies of the Measure 56 notices to the City Council.

Consider PERS Financing Program – Resolution

Mr. Taylor said the Council had heard a presentation from Carol Samuels of Seattle-Northwest Securities on an alternate method for the City's paying the unfunded actuarial liability (UAL) with PERS. City of Milwaukie employees participated in the PERS system, so at each pay period, the City sent employee and employer contributions to fund the future retirement benefits for employees. A portion of the contribution sent to PERS represented funding the cost of future for those retiring from PERS. Currently, part of that contribution was funding an unfunded portion of those benefits based on an actuarial projection out 23 years. The unfunded liability for the City of Milwaukie as of December 31, 2003 was \$3.2 million. Under state law, municipalities may enter into pension obligation bonds with the proceeds going to PERS as a lump sum payment. The City would have a debt service on those bonds with the current low interest rates. The liability at PERS accrued at 8%, and current market rates were less. He discussed possible risks. The proposed resolution indicated the City's interest in participating in a pool.

Mayor Bernard understood this resolution expressed the City's intent to proceed, and staff would return to Council with information on the pool.

Mr. Taylor said that was correct plus it would authorize staff to request the specific lump sum amount from PERS. There were some minor costs at this point for the information.

Councilor Barnes called a local jurisdiction and was told it would not be in the best interest of the City because it owed such a small amount, and there was some risk involved.

Councilor Collette contacted her cousin who was a CPA. Initially, he said the amount did seem to be low, and the \$53,000 annual savings was not substantial. He had noted it was a good time to finance but needed more time to review the proposal.

Councilor Stone asked if the City Council had to adopt this resolution in order to get the amount of the PERS liability.

Mr. Taylor replied that was correct because of the pooled situation. He believed the total expense to the City for this phase was about \$1,700.

Mr. Swanson noted Milwaukie's \$3 million liability was relative depending on the size of the organization's budget. The risk would be that the market went lower. This proposed action would fix that portion of the budget that tended to fluctuate. Milwaukie would not be one of the big players in the pool, but the impact would be the same on relative terms. He believed it was the proper thing to do.

Mayor Bernard agreed and supported the staff recommendation to begin this phase.

Councilor Stone asked how long the payment period was and if the resolution should include reference to the 8% interest rate. She also suggested that it read, "will reduce costs for participating governments." If the Council decided not to do this, the City could still fund it for 23 years.

Mr. Taylor said that rate was established every biennium in the Legislature, so the City had to estimate its budget without those rates.

Councilor Stone asked how other professionals felt about this program.

Mr. Taylor spoke with several agencies, and some were going to participate while others were not. The bond would be for a period of 23 years, and the City would save approximately \$53,000 annually.

Mayor Bernard recessed the meeting at 9:03 p.m. and reconvened at 9:08 p.m.

Mr. Taylor referred to resolution page 3, Section 3 – Delegation, which authorized the City Official to pursue issuance of the bonds. He asked the City Attorney to comment on the opportunities for the City Council to reverse the direction.

Mr. Firestone said as the resolution was drafted, the City Manager was authorized to make the decision on whether or not to proceed. It did not provide for its going back to the City Council. The Council could adopt the resolution as stated, and then have a second motion directing the City Manager to provide individual notification to each Council member 24 hours before taking action.

Councilor Stone asked if it could be stated that the final decision had to come back to Council.

Mr. Firestone said timing would be an issue. These were drafted to satisfy Seattle-Northwest Securities' concerns about how the process might work. If the City Council did have concerns and wanted to know terms, it could make a motion directing the City Manager to advise the Council members individually. The mayor or two council members could call a meeting if necessary.

Councilor Stone understood the City Council could have a special meeting to look at this again for final adoption.

Mr. Firestone said generally speaking the resolution anticipated that the City Official would take action. Based on what he heard, this would provide Council a way to step in if something looked wrong.

Councilor Stone was concerned there was not a full Council at this meeting.

Mayor Bernard said if the City wished to participate in this issuance, Seattle-Northwest needed to be notified by July 21.

Councilor Stone asked how the City Manager would determine the issuance.

Mr. Taylor replied his determination would be based on the current rate, composition of the pool, and the final lump sum amount from PERS. The pricing for the entire issue was expected to be in place in September.

It was moved by Councilor Collette and seconded by Mayor Bernard to adopt the resolution authorizing participation in the limited tax pension bonds, Series 2005. Motion passed 3 – 1 with Councilor Barnes voting against.

RESOLUTION NO. 37-2005:

A RESOLUTION AUTHORIZING PARTICIPATION IN LIMITED TAX PENSION BONDS, SERIES 2005.

It was moved by Councilor Collette and seconded by Mayor Bernard that the City Manager attempt to advise each Council member individually before taking action under Section 3 of the resolution authorizing participation in limited tax pension bonds, series 2005. Motion passed unanimously among the members present. [4:0]

Other

- **Mayor Bernard** would attend the MPAC meeting to discuss cities' concerns about developments outside of downtown areas.
- **Councilor Stone** met with Mike Richardson of Dark Horse Comics and Mr. Swanson to discuss economic development in the downtown. Mr. Richardson was very involved several years ago when the City was developing its concept plan, and he had one that was very similar. She believed it would be good to engage him.
- **Councilor Collette** was meeting with Neal Hankerson of Dark Horse. Dark Horse representatives had met with the Historic Milwaukie Neighborhood Association to review its plan. She noted that the theatre was opening an arcade and thought it might be a good thing to try to influence what was taking place. **Councilor Stone** was concerned that communication be fostered so the City knew these things were happening. **Councilor Collette** said that was one of the goals of the team she was pulling together because there was no communication process in place. **Councilor Barnes** thought the issue of what was being provided to young people needed to be revisited.
- **Councilor Barnes** announced the Tourism Action Plan meeting on July 28th.

ADJOURNMENT

It was moved by Mayor Bernard and seconded by Councilor Collette to adjourn the meeting. Motion passed unanimously among the members present. [4:0]

Mayor Bernard adjourned the regular session at 9:25 p.m.

Pat DuVal
Pat DuVal, Recorder